



# Maine Creditor Update

## Office of Consumer Credit Regulation



Issue #42

Regulatory News for Maine's Creditors

September 2004

## NEW CREDIT LAWS ENACTED

Below are brief summaries of the law changes affecting industries regulated by the Office of Consumer Credit Regulation. The full text of each new public law is available at the website <http://janus.state.me.us/legis/>; go to "Constitution, Statutes and Session Laws of Maine," and click on the "Session Laws" link.

- 1. Payroll processing law strengthened.** Public Law ("P.L.") 668 adds a surety bonding requirement to the qualifications for operating a payroll processing company serving Maine employers. The law also shifts administration of the law from Maine Revenue Services to the Office of Consumer Credit Regulation. (See related story, p. 3.)
- 2. Collectors hired to pursue child support now subject to Maine's FDCPA.** P.L. 562 amends Maine's Fair Debt Collection Practices Act to define "debt" to include "any obligation or alleged obligation for payment of child support owed to, or owed by, a resident of [Maine]."
- 3. "SmartBuy" auto finance products permitted.** P.L. 543 permits Maine auto dealers and auto sales finance companies to offer automobile financing products that combine the terms and conditions of an auto lease with the ownership characteristics of a credit sale or loan. The law allows dealers to offer auto loans with balloon payments if the contracts contain adequate protection for Maine consumers, including the right to return the vehicle in lieu of making the final balloon payment.
- 4. Mortgage volume fees reduced.** P.L. 654 reduces volume fees paid by mortgage companies from the previous \$20 per \$100,000 of new funds advanced, to \$15 per \$100,000, so long as the fund balance of the Office of Consumer Credit Regulation exceeds 125% of its budget. In addition, the law authorizes the director of the agency to lower fees even further (see related story, "Rule reduces mortgage fees," page 3).
- 5. Privacy — Credit card receipts.** P.L. 586 delays until January 1, 2005 enforcement of the law that prohibits businesses from printing more than the last 5 numbers of a credit card or debit card account on an electronically produced receipt. The legislature enacted the law based on testimony that technicians able to perform the necessary software upgrades were not readily available in Maine.
- 6. Photocopying drivers' licenses.** P.L. 568 permits the photocopying of a driver's license if the photocopy is made solely for identification purposes to consummate a financial transaction.
- 7. Privacy — Refusal to provide Social Security number.** P.L. 512 prohibits merchants from denying consumers goods or services if an individual refuses to provide a Social Security number, except under certain circumstances such as to comply with Federal or State law requirements, when requesting a consumer report under the Fair Credit Reporting Act, when borrowing from supervised lenders, or when landlords perform background checks.

## Busy Season for Disciplinary Actions

The past several months have seen a dramatic increase in the number of formal disciplinary hearings conducted by the Office of Consumer Credit Regulation. Among them:

### 1) EAST COAST FUNDING, INC.

On March 10, 2004, the Office of Consumer Credit Regulation revoked the license of East Coast Funding, Inc., a Brewer loan broker. A consent agreement signed by the parties March 8 declares that "East Coast is no longer qualified" to arrange loans for Maine consumers. The agency began its investigation in late January based on allegations that Francis Fox, owner of East Coast, filed false corporate documents, failed to segregate consumers' funds from working capital and failed to pay appraisers. "Our investigation found that Mr. Fox had listed individuals as officers of his corporation, when in fact those individuals had no idea they had been named in those capacities," said Will Lund, director of the state agency. "Further, we found that Mr. Fox had not maintained a separate escrow account for consumer funds as required by law, and that he owed appraisers a great deal of money for services ordered and rendered but not paid for."

### 2) LENAHAN LAW OFFICES

On April 13, 2004, the agency issued an order assessing a penalty of \$9,000 against Lenahan Law Offices, a law firm in Buffalo, New York, that buys delinquent debt from credit card companies and other creditors. After a testimonial hearing, Director Lund found that Lenahan illegally communicated with third parties, harassed Maine consumers, threatened to seize or garnish benefit checks and falsely implied that debtors had committed crimes. Five consumers testified that they were subject to Lenahan's harassing tactics. Also testifying was a neighbor of one consumer on whose answering machine collection messages were left, and a work supervisor of another debtor who testified to the devastating effect of wrongful collection calls to the debtor's workplace and to co-workers.

### 3) LIGHTHOUSE MORTGAGE, LLC

A May 12, 2004, order revoked the loan broker license of Lighthouse Mortgage, LLC of Cape Elizabeth, citing consumer complaints, financial irresponsibility and failure to promptly respond to State investigators. The order followed a hearing which detailed allegations ranging from undue mortgage application delays and surprise closing costs, to lost locked-in rates and claims that Paul Lavallee, the principal of Lighthouse, signed consumers' names to a document without the consumers' knowledge or permission. Evidence revealed that Lighthouse's business checking account and its consumer escrow account were both routinely overdrawn. The order also cited evidence

*continued on page 2*

Mailing Address	Inside:	Office Location
Office of Consumer Credit Regulation 35 State House Station Augusta, Maine 04333-0035 Tel (207) 624-8527 Fax (207) 582-7699	Payroll Processor Law Enhanced . . . . 3 Mortgage Fees Further Reduced . . . . 3 Quotes . . . . . 3 Fake Checks Cause Problems . . . . . 4	Gardiner Annex 122 Northern Ave., Gardiner, ME 04345  World Wide Website <a href="http://www.MaineCreditReg.org">www.MaineCreditReg.org</a>

# Record of Disciplinary Action

**July 1, 2003 - August 31, 2004**

(Excluding auto dealer advertising violations)

DATE	NAME	TYPE OF ACTION
07/11/03	Amy Blackinton & Northeast Financial LLC, D/B/A Blackwood Financial, Inc.	Cease & Desist – unregistered credit service organization
08/13/03	Whitewing Financial Group	Cease & Desist – unlicensed collection agency
08/13/03	MRS Associates	Cease & Desist – failure to provide documentation under FDCPA
10/17/03	Debt Relief Group Debt Consolidation	Cease & Desist – unlicensed collection agency
10/17/03	Debt Management Foundation	Cease & Desist – unlicensed collection agency
11/26/03	National Consumers Union	Cease & Desist – unregistered credit service organization
03/02/04	Americredit	Assurance of Discontinuance – failure to provide notice of right to cure
03/02/04	Brite Start Consulting Corp.	Cease & Desist – unregistered debt management
03/05/04	East Coast Funding of Maine, Inc.	Consent Agreement – broker's registration revoked
04/13/04	Lenahan Law Offices	Decision and Order – Cease & Desist unlicensed collection activity; civil penalties

## STATE OF MAINE OFFICE OF CONSUMER CREDIT REGULATION

Director ..... William N. Lund  
 Examiner-in-Charge ..... Linda Cunningham  
 Principal Examiner ..... Del Pelton  
 Principal Examiner ..... Richard Howard  
 Principal Examiner/Research/Outreach ..... David Stetson  
 Research/Outreach ..... David Leach  
 Senior Examiner ..... Mary Young  
 Senior Examiner ..... Douglas Stark  
 Senior Examiner ..... Douglas Jennings  
 Administrative Secretary ..... Doris Whitaker  
 Clerk/Typist IV ..... Lorna Plaisted  
 Clerk/Typist II ..... Emilie Sinclair

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05/04/04	NCO Financial Systems, Inc.	Assurance of Discontinuance – non-compliance with FDCPA by a collector
05/12/04	Lighthouse Mortgage, LLC	Decision and Order – broker's registration revoked (currently on appeal)
05/24/04	The Credit Store	Cease & Desist – failure to renew license of collection agency; cancellation of surety bond
05/27/04	One Source Credit Solutions, Inc.	Assurance of Discontinuance – failure to provide financial statements to renew license of collection agency
06/14/04	Rockland Financial, LLC	Decision and Order – broker's registration revoked
06/28/04	Money Tree Mortgage, Inc.	Decision and Order – lender's license revoked; restitution ordered (currently on appeal)

## Disciplinary Actions, continued from page 1

that Lighthouse failed to pay for a state audit of its activities, failed to pay an appraiser's bill even after the appraiser obtained a court judgment, and used its consumer escrow account for personal expenses on one or more occasions. Director Lund's order is currently under appeal to Superior Court.

### 4) ROCKLAND FINANCIAL, LLC

On June 15, 2004, the agency revoked the loan broker license held by Rockland Financial, LLC of Bridgton, citing a lack of financial responsibility, the making of a material misrepresentation to regulators and failure to respond to regulatory communications, including failure to obey a subpoena to appear at the license revocation hearing. The hearing officer found that "Rockland Financial, LLC and its president, Jordan Fox, do not meet the requirements of Maine's Credit Services Organizations law, which mandates that companies be operated in a manner that demonstrates financial responsibility and appropriate character and fitness."

### 5) MONEY TREE MORTGAGE, INC.

On June 24, 2004, the agency revoked the supervised lender license held by Money Tree Mortgage, Inc. of Woodstock Georgia. Consumers alleged that Money Tree engaged in a pattern of intentional, unfair, deceptive and unconscionable lending practices, specifically by promising to provide loans upon receipt of a \$300 application fee and then by failing to provide such loans or to respond to the consumers after receipt of the fee. The agency cited lack of financial responsibility and inappropriate character and fitness of the lender and its officers. The hearing officer found that the status of the company's operations, especially the cancellation of its Maine surety bond, required immediate action for the protection of borrowers. The decision has been appealed.

## Noteworthy Quotes

“When we arrived to repossess the ATV, we found that the debtor had chained his huge bull mastiff, Brutus, to the front axle. Brutus had already chewed off and eaten the ATV’s vinyl seat. We called the bank and explained the situation, and they phoned the debtor and worked out an agreeable payment plan.”

— Maine repossession agent

“They will never be short again.”

— Villain creditor in the movie *Zorro*, the Gay Blade, starring George Hamilton. Fictional debtors were put on the rack and “stretched” after telling their creditor that they couldn’t pay him because they were “a little short” (as reported in *Managing Credit, Receivables & Collections*, 12/03).

“The collector threatened to call my probation officer. That doesn’t bother me, because I’m not even on probation, at least not here in Maine.”

— Practical-minded rent to own customer

“You’ll never get my \$1 again.”

— Thrifty consumer in a letter to a match company. The consumer wrote to our office after purchasing 6 boxes of matches (containing a total of 1,500 matches) for \$1 at an “Everything for a Dollar” store. He was upset that several of the matches didn’t light.

“So I do have a chance, then.”

— Maine consumer, after we directed her to the fine print on a sweepstakes offer disclosing that her chances of winning were “99,000,000:1”

“The credit card charges were not made by me, they were made by a con man. I never signed for the card, I never authorized the card, I never used the card. I was taken. The con man even cheated me out of my furniture. He took it with him, and it was mine before I married him.”

— Bangor-area woman’s letter disputing credit card charges

## Payroll Processor Law Enhanced

Following the second bankruptcy in the last eight years of a Maine payroll processor company, the Baldacci administration worked with legislators to enact L.D. 1843, *An Act to Require Surety Bonding by Payroll Processing Companies*. This legislation strengthens oversight of payroll processors to protect the thousands of Maine businesses who entrust their payrolls and tax withholdings to third-party processors. It requires payroll processors to obtain a license and post a surety bond designed to enable businesses to recover unpaid taxes. The legislation enjoyed the strong support of the business community, including the Maine State Chamber of Commerce and the Maine Restaurant Association.

License and bond forms have been drafted and mailed to all companies that were registered as payroll processors under the prior Maine Revenue Services program. Those forms are available upon request or on the website of the Office of Consumer Credit Regulation, [www.MaineCreditReg.org](http://www.MaineCreditReg.org).

## Rule Reduces Mortgage Fees

This month the Office of Consumer Credit Regulation adopted a regulation reducing volume fees for loans secured by real estate from \$15 to \$10, so long as the Office’s fund balance exceeds 125% of its annual budget.

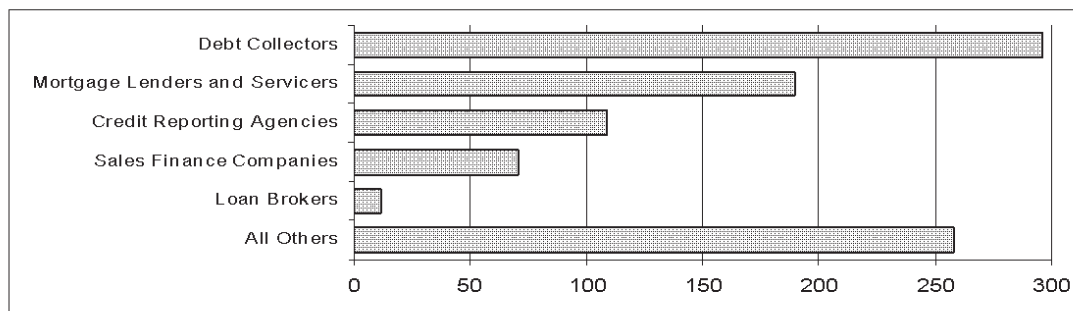
As required by Maine’s Administrative Procedures Act, notice of the proposed rulemaking was published in various Maine newspapers and provided to lenders and other interested parties. No comments were received.

The regulation reduces volume fees for real estate-secured loans made in calendar year 2004. Those fees are payable on or before January 31, 2005, as part of lenders’ annual registration forms.

The text of the rule is posted on the agency’s website, [www.MaineCreditReg.org](http://www.MaineCreditReg.org); click on the “New volume fee rule” link.

## CONSUMER COMPLAINT REPORT

July 1, 2003 – June 30, 2004



Formal Written Complaints Received

Total Formal Written Complaints: 936

Total Telephone Complaints/Requests for Assistance: 3,624

Restitution to Consumers Through Complaints: \$193,166.56



## Mainers Encounter Fake Check Scams

A Maine payday lender and his customer are both poorer and wiser following a successful scam involving a realistic-looking fake bank check.

The lender cashed the check for \$5,000 after the customer said she needed it to send to a sick relative. Later, when the check proved fraudulent, the customer admitted that she cashed the check as a favor for a "friend" she met on the Internet. The friend claimed to live in Maine but told the woman he was in Europe on business. He had a very ill son in South Africa, he explained, and he needed the woman's help to get funds to him. The proceeds from the check were wired to a location in South Africa.

A reproduction of the check is pictured below:

THIS MULTI-TONE AREA OF THE DOCUMENT CHANGES COLOR GRADUALLY AND EVENLY FROM DARK TO LIGHT WITH DARKER AREAS BOTH TOP AND BOTTOM.

**EVERTRUST BANK**  
2707 Colby Ave., Ste. A  
Everett, WA 98201

98-7069  
3251

505887

PAY ONLY **5000.00** CTSCTS

PURCHASER: MARION JONES

DATE: 06/29/2004

PER 07/07/2004 11 12 420097203 7898 22 WEIGH  
LSSR 07/07/2004 0 1 430593266 3893 12

FIVE THOUSAND DOLLARS AND 00-CENTS

TO THE ORDER OF

☐ SIGNATURE REQUIRED  
☐ 2 SIGNATURES REQUIRED  
☐ ENDORSEMENT REQUIRED  
☒ OTHER

CASHIER'S CHECK

AMOUNT  
\*\*\*\*\*\$5,000.00  
VOID IF NOT CASHED IN 90 DAYS

VOID OVER \$5,000.00

⑈505887⑈ ⑆325370⑈ ⑆91100000025⑈ 171 ⑆0000500000⑈

With the assistance of the alert management of Katahdin Federal Credit Union, a Millinocket consumer narrowly avoided being stung in a separate fake check scam. In this instance, the consumer received a check for \$11,150.54 (see copy below), together with a letter explaining that the payment was a "partial withdrawal" from a "trust account," the existence of which was previously unknown to the

THIS DOCUMENT HAS A COLORED BACKGROUND AND MICROPRINTING. THE REVERSE SIDE INCLUDES AN ARTIFICIAL WATERMARK.

**Loan Consultants Inc.**  
Suite 2000 4000 West Main Street  
Vancouver, B.C. V6M 1A1

2321

DATE: 08/18/2004

Pay to the order of: **\$11,150.54**

TEN THOUSAND TWO HUNDRED THIRTY SIX AND 00/100 USD

**CANADIAN WESTERN BANK**  
LINE 301-101 1500 Bloor Street  
Columbus, BC  
V5K 4X8

*Ken Smith*

⑈00242⑈ ⑆151836⑈ 030⑈ ⑈0011000⑈

consumer. The Mainer was instructed to call a Canadian "888" telephone number to learn what fees would be required in order to effect release of the "remaining balance" of the account. Such fees, the letter explained, would have to be paid by overnight mail, wire transfers or direct debit of the consumer's checking account. The thieves' obvious plan was to pocket these fees long before the worthless initial check was returned NSF to the consumer's bank.

## WHAT'S MY LINE?

Lagos, Nigeria is the home of many advance-fee fraud schemes. Nigerian scam artists request victims' bank account numbers, supposedly in order to transfer millions of dollars in "over-invoiced government contracts," then empty the



consumers' accounts electronically. When officials attempt to trace telephone, fax and e-mail lines to determine who is perpetrating advance fee fraud schemes, they face a near-impossible task. According to the US Department of State, these photos show "typical" telephone line arrangements in Lagos, Nigeria.



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## Examination Summary July 1, 2003 through June 30, 2004

by Del Pelton, Principal Examiner

Total Exams (including 262 in-house exams): ..... 431

*By Business Type:*

Supervised Lenders .....	214
Auto Dealers .....	76
Mortgage Brokers .....	51
Leasing Companies .....	41
Sales Finance Companies .....	14
Credit Reporting Agency .....	10
Pawn Brokers .....	9
Debt Collectors .....	6
Retail Merchants .....	3
Money Transmitters .....	2
Payday Lenders .....	2
Check Casher .....	1
Loan Servicer .....	1
Time Share .....	1

Total Restitution resulting from exams: ..... \$8,435.25

*Most common violations:*

Mortgage Brokers: Incomplete or no contract provided ...	421
Auto Dealers: Incomplete/incorrect truth-in-lending disclosures .....	169
Supervised Lenders: No attorney notice or insufficient notice provided .....	118
Auto Dealers: No disclosure provided .....	104
Supervised Lenders: Incorrect and/or incomplete truth-in-lending disclosures .....	76
Supervised Lenders: Incomplete or no broker contract provided .....	66
Auto Dealers: No privacy notice provided .....	65
Pawn Brokers: Incorrect and/or incomplete disclosures ..	28
Sales Finance Companies: Incorrect or no cure provided ..	25
Supervised Lenders: No privacy notice provided .....	18

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## Can Undocumented Mortgage "Side Deals" Constitute Fraud?

Buyers and sellers of residential real estate will sometimes agree to "side deals" in which money changes hands to cover the cost of needed repairs or defects discovered on the property. However, if these adjustments are substantial enough to affect the value of the residences being used as security for loans to the buyers, and if the side deals are not reflected in the HUD-1 closing statement, then all parties to the transactions (including the settlement agents and the real estate agents) should carefully review their participation to determine whether legal or ethical principles are being violated.

In any FHA-insured loan, the buyer, seller and settlement agent each sign statements attesting to the accuracy of the figures being used; *see* "FHA Addendum to HUD-1 Settlement Statement." (The settlement agent's certification is the most precise, indicating that the individual attests that the HUD-1 is a "true and accurate account of the funds which were received or paid outside closing.") Knowledge of a substantial side agreement not reflected in the HUD-1 would almost certainly violate these representations. *See also* federal law regarding false statements made in the loan process, 18 USC Secs. 1010, 1014 and 1344(A).

Maine law does not contain specific provisions prohibiting undocumented side agreements, such as the one enacted in Alabama which states that a real estate agent may lose his or her license for "misrepresenting or failing to disclose ... the true terms of a sale of real estate" (Ala. Code, sec. 34-27-36(a)(21). However, parties to Maine transactions should not assume that the absence of a state law here means that such deals are permitted on mortgages headed for the secondary market, especially when the loans will be held or guaranteed by government or quasi-government entities.

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